

**UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

DARETHA BRAZIEL, et al,

Case No. 21-cv-00960-HYJ-PJG

Plaintiffs,

Hon. Hala Y. Jarbou

v.

Magistrate Judge Phillip J. Green

GOVERNOR GRETCHEN WHITMER, et al,

Defendants.

And

DWAYNE GRANT, et al,

Case No. 22-cv-00186-HYJ-PJG

Plaintiffs,

v.

U.S. ENVIRONMENTAL PROTECTION
AGENCY, et al,

Defendants.

And

IESHA MITCHELL, Guardian and Next Friend Case No. 22-cv-00475-HYJ-PJG
of A.M., et al Plaintiffs,

v.

CITY OF BENTON HARBOR, et al,

Defendants;

**DEFENDANTS THE CITY OF BENTON HARBOR, MARCUS MUHAMMAD,
MICHAEL O'MALLEY, DARWIN WATSON, AND ELLIS MITCHELL'S
MOTION TO DISMISS ON QUALIFIED IMMUNITY**

Defendants The City of Benton Harbor (the "City"), Marcus Muhammad, Michael O'Malley, Darwin Watson, and Ellis Mitchell (together, the "City Officials," and with the City,

the “City Defendants”), by their undersigned counsel, submit this motion to dismiss pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6) related to issues of sovereign immunity and qualified immunity.¹ In support of their motion, the City Defendants rely upon the authorities and arguments set forth in the incorporated brief, as well as all exhibits and attachments.

The City Defendants presented the bases of this motion to the Plaintiffs in their requests for pre-motion conferences, and, as set forth in the responses to those requests, the Plaintiffs do not concur in the relief sought.

Respectfully submitted,

BODMAN PLC

By: Thomas J. Rheaume, Jr.
Thomas J. Rheaume, Jr. (P74422)
Alexandra C. Markel (P81705)
6th Floor at Ford Field
1901 St. Antoine Street
Detroit, Michigan 48226
313-259-7777
trheaume@bodmanlaw.com
amarkel@bodmanlaw.com
Attorneys for City Defendants

December 16, 2022

¹ Pursuant to this Court’s Omibus Order dated October 20, 2022, the City Defendants have concurrently submitted a motion to dismiss pursuant to Rule 12(b)(6) on other issues related to non-state law claims. *See Braziel v. Whitmer*, 1:21-cv-00960 (W.D. Mich. filed Nov. 10, 2021), ECF No. 130; *Grant v. Environ. Protection Agency*, 1:22-cv-00186 (W.D. Mich. filed Mar. 2, 2022), ECF No. 59; *Mitchell v. City of Benton Harbor*, 1:22-cv-00475 (W.D. Mich. filed May 27, 2022), ECF No. 71.